

PTO/SB/21 (08-03)

Approved for use through 08/30/2003. OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

DAC  
JRW

<b>TRANSMITTAL FORM</b> <i>(to be used for all correspondence after initial filing)</i>		Application Number	10/681,955
		Filing Date	10/8/2003
		First Named Inventor	Ralph F. Kalies
		Art Unit	
		Examiner Name	Frances Hicks
Total Number of Pages in This Submission		Attorney Docket Number	036806-432

ENCLOSURES (Check all that apply)			
<input checked="" type="checkbox"/> Fee Transmittal Form <input checked="" type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/ Incomplete Application <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input checked="" type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation <input type="checkbox"/> Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____	<input type="checkbox"/> After Allowance communication to Technology Center (TC) <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please Identify below): --Return Postcard -Copy of Response to Petition Dated 7/30/04 -Copy of Petition and Declaration Executed 3/30/04 -Power of Attorney Executed 3/19/04 -Notice of Recordation of Assignment Dated 3/4/04 -Declaration Executed 9/29/04	
<input type="checkbox"/> Remarks The Commissioner is hereby authorized to charge any additional fees required (including the fee for any extension of time), or to credit any overpayment, to Deposit Acct No.: 20-0809.			

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT	
Firm or Individual name	Thompson Hine LLP 2000 Courthouse Plaza N.E., 10 West Second Street Dayton, Ohio 45402-1758
Signature	
Date	

CERTIFICATE OF TRANSMISSION/MAILING		
I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: <u>Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450</u> on the date shown below <u>the date shown below</u> . Mail Stop PETITION, Commissioner for Patents, Post Office Box 1450, Alexandria, VA 22313-1450 on the date shown below		
Typed or printed name	Rodney M. Young, Registration No. 40,882	
Signature		Date 9/30/04

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

**O I P E JC169**  
**OCT 8 2003**  
**PATENT & TRADEMARK OFFICE**

# FEE TRANSMITTAL for FY 2004

Effective 10/01/2003. Patent fees are subject to annual revision.

 Applicant claims small entity status. See 37 CFR 1.27**TOTAL AMOUNT OF PAYMENT** (\$ 130.00)**Complete if Known**

Application Number	10/681,955
Filing Date	10/8/2003
First Named Inventor	Ralph F. Kalies
Examiner Name	Frances Hicks
Art Unit	
Attorney Docket No.	036806-432

**METHOD OF PAYMENT (check all that apply)**
 Check  Credit card  Money Order  Other  None
 Deposit Account:

Deposit Account Number	20-0809
Deposit Account Name	Thompson Hine LLP

The Director is authorized to: (check all that apply)

- Charge fee(s) indicated below  Credit any overpayments  
 Charge any additional fee(s) or any underpayment of fee(s)  
 Charge fee(s) indicated below, except for the filing fee to the above-identified deposit account.

**FEES CALCULATION****1. BASIC FILING FEE**

Large Entity	Small Entity	Fee Description	Fee Paid
Fee Code (\$)	Fee Code (\$)		
1001 770	2001 385	Utility filing fee	
1002 340	2002 170	Design filing fee	
1003 530	2003 265	Plant filing fee	
1004 770	2004 385	Reissue filing fee	
1005 160	2005 80	Provisional filing fee	
<b>SUBTOTAL (1)</b>		<b>(\$ 0)</b>	

**2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE**

Total Claims	Extra Claims	Fee from below	Fee Paid
Independent Claims	-20** =	X	=
Multiple Dependent	- 3** =	X	=

Large Entity	Small Entity	Fee Description
Fee Code (\$)	Fee Code (\$)	
1202 18	2202 9	Claims in excess of 20
1201 86	2201 43	Independent claims in excess of 3
1203 290	2203 145	Multiple dependent claim, if not paid
1204 86	2204 43	** Reissue independent claims over original patent
1205 18	2205 9	** Reissue claims in excess of 20 and over original patent
<b>SUBTOTAL (2)</b>		<b>(\$ 0)</b>

\*\*or number previously paid, if greater; For Reissues, see above

**3. ADDITIONAL FEES**

Large Entity	Small Entity	Fee Description	Fee Paid
Fee Code (\$)	Fee Code (\$)		
1051 130	2051 65	Surcharge - late filing fee or oath	
1052 50	2052 25	Surcharge - late provisional filing fee or cover sheet	
1053 130	1053 130	Non-English specification	
1812 2,520	1812 2,520	For filing a request for ex parte reexamination	
1804 920*	1804 920*	Requesting publication of SIR prior to Examiner action	
1805 1,840*	1805 1,840*	Requesting publication of SIR after Examiner action	
1251 110	2251 55	Extension for reply within first month	
1252 420	2252 210	Extension for reply within second month	
1253 950	2253 475	Extension for reply within third month	
1254 1,480	2254 740	Extension for reply within fourth month	
1255 2,010	2255 1,005	Extension for reply within fifth month	
1401 330	2401 165	Notice of Appeal	
1402 330	2402 165	Filing a brief in support of an appeal	
1403 290	2403 145	Request for oral hearing	
1451 1,510	1451 1,510	Petition to institute a public use proceeding	
1452 110	2452 55	Petition to revive - unavoidable	
1453 1,330	2453 665	Petition to revive - unintentional	
1501 1,330	2501 665	Utility issue fee (or reissue)	
1502 480	2502 240	Design issue fee	
1503 640	2503 320	Plant issue fee	
1460 130	1460 130	Petitions to the Commissioner	130.00
1807 50	1807 50	Processing fee under 37 CFR 1.17(q)	
1806 180	1806 180	Submission of Information Disclosure Stmt	
8021 40	8021 40	Recording each patent assignment per property (times number of properties)	
1809 770	2809 385	Filing a submission after final rejection (37 CFR 1.129(a))	
1810 770	2810 385	For each additional invention to be examined (37 CFR 1.129(b))	
1801 770	2801 385	Request for Continued Examination (RCE)	
1802 900	1802 900	Request for expedited examination of a design application	
Other fee (specify)			
*Reduced by Basic Filing Fee Paid		<b>SUBTOTAL (3)</b> (\$ 130.00)	

(Complete if applicable)

Name (Print/Type)	Rodney M. Young	Registration No. (Attorney/Agent)	40,882	Telephone	513-352-6634
Signature	<i>Rodney M. Young</i>			Date	9/30/04

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

This collection of information is required by 37 CFR 1.17 and 1.27. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.



Customer No. 27805

**PATENT**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Application of:

Applicant : Ralph F. Kalies  
Serial No. : 10/681,955  
Filed : October 8, 2003  
Title : METHOD FOR PROCESSING AND ORGANIZING PHARMACY DATA  
Docket : 036806-432  
Examiner : Frances Hicks

Mail Stop PETITION  
Commissioner for Patents  
Post Office Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

**REQUEST FOR RECONSIDERATION OF PETITION UNDER 37 CFR 1.47(b)**

With regard to the above-identified patent application, wherein Ralph F. Kalies is the sole named inventor (the "applicant"), this Request for Reconsideration is filed in response to Office of Petition's decision refusing status under 37 CFR 1.47(b) mailed July 30, 2004 (copy enclosed), and is accompanied by:

- (1) Petition and Statement of Facts in Support of Filing on Behalf of Inventor Refusing to Sign (37 CFR 1.47(b)) dated March 30, 2004
- (2) Declaration under 37 CFR 1.63
- (3) Power of Attorney executed by Regis T. Robbins, Vice President of Omnicare, Inc., on March 19, 2004, authorizing the undersigned to act on behalf of the Assignee, Omnicare, Inc.
- (4) Notice of Recordation of Assignment Document

**Action Requested**

Request for reconsideration of the decision refusing status under 37 CFR 1.47(b) is hereby made in the above-identified application. In particular, the decision refusing status under

Request for Reconsideration  
Serial No. 10/681,955

37 CFR 1.47(b) in response to applicant's petition filed on March 30, 2004 dismissing such petition stated in pertinent part that:

A grantable petition under 37 CFR 1.47(a) requires (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. Applicant lacks item (2) set forth above (emphasis mine).

The decision further stated that:

As to item (2), the declaration submitted with the petition lacks compliance with 37 CFR 1.63 and 1.64. The signature block for Ralph F. Kalies is missing. Accordingly, an oath or declaration in compliance with 37 CFR 1.63 and 1.64 signed by the Rule 1.47 applicant on behalf of Kalies is required. See **MPEP 409.03(a)** (emphasis mine).

The commissioner is kindly requested to reconsider the decision refusing status since all of the requirements for a petition under 37 CFR 1.47(b) as indicated in MPEP 409.03(b) where there is "no inventor available" to make the application. In other words, this petition is not a petition under 37 CFR 1.47(a), but is a petition under 37 CFR 1.47(b). As indicated above, the words from the initial decision dismissing the petition misperceived the basis of our 37 CFR 1.47(b) petition. Consequently, applicant respectfully requests a review of this Request for Reconsideration of Petition Under 37 CFR 1.47(b) and the accompanying documents in order to allow the application to pass to examination.

Remarks

The terms of the decision refusing status indicated that the applicant simply lacked item (2), referring to the declaration, and that the other requirements are satisfied for a grantable petition. Applicants have enclosed the initial Petition and Statement of Facts in Support of Filing on Behalf of Inventor Refusing to Sign (37 CFR 1.47(b)) for reconsideration by the Office of Petitions, the content of which is hereby incorporated by reference. Since the deficiency that is to be addressed relates to the oath or declaration, the remainder of this request for

Request for Reconsideration  
Serial No. 10/681,955

reconsideration will focus on those requirements and the MPEP 409.03(b) comments relating to the making of such an oath or declaration as follows:

Where a corporation is the 37 CFR 1.47(b) applicant, an officer (president, vice president, secretary, treasurer or chief executive officer) thereof should normally sign the necessary oath or declaration. A corporation may authorize any person, including an attorney or agent registered to practice before the U.S. Patent and Trademark Office, to sign the application, oath or declaration on its behalf.

Where an oath or declaration is signed by a registered attorney or agent on behalf of a corporation, either proof of the attorney's or agent's authority in the form of a statement signed by an appropriate corporate officer must be submitted, or the attorney or agent may simply state that he or she is authorized to sign on behalf of the corporation.

In this particular instance, a corporation, Omnicare, Inc., is the 37 CFR 1.47(b) applicant and an officer of the corporation has authorized the undersigned registered attorney to sign the application declaration on behalf of the corporation. A Declaration executed by the undersigned registered attorney is herewith enclosed.

These remarks and the enclosed documents should wholly satisfy the requirement of 37 CFR 1.47(b) and the above-identified application should be allowed to pass to examination.

Submitted herewith is a check for \$130.00 to cover the cost of the petition. In view of the foregoing, applicant respectfully requests granting of this Request for Reconsideration. Please direct any questions regarding this matter to Applicant's undersigned attorney.

Respectfully submitted,

Date: 9/29/04



Rodney M. Young  
Reg. No. 40,882

THOMPSON HINE LLP  
2000 Courthouse Plaza NE  
10 West Second Street  
Dayton, Ohio 45402-1758  
Telephone (513) 352-6634  
Facsimile: (513) 241-4771

503492



## UNITED STATES PATENT AND TRADEMARK OFFICE

OCT 04 2004  
PATENT & TRADEMARK OFFICECommissioner for Patents  
United States Patent and Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

RECEIVED

THOMPSON HINE  
2000 COURTHOUSE PLAZA NE  
10 WEST SECOND STREET  
DAYTON, OH 45402AUG 04 2004  
INTELLECTUAL PROPERTY  
LAW GROUP  
THOMPSON HINE LLP

COPY MAILED

JUL 30 2004

OFFICE OF PETITIONS

TDL

ON PETITION

9/30/04 resp due

RECEIVED  
AUG 04 2004  
DOCKETED

This is in response to the petition under 37 C.F.R. 1.47(b), filed March 30, 2004.

The petition is dismissed.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Any extensions of time will be governed by 37 CFR 1.136(a).

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. Applicant lacks item (2) set forth above.

As to item (2), the declaration submitted with the petition lacks compliance with 37 CFR 1.63 and 1.64. The signature block for Ralph F. Kalies is missing. Accordingly, an oath or declaration in compliance with 37 CFR 1.63 and 1.64 signed by the Rule 1.47 applicant on behalf of Kalies is required. See MPEP 409.03(a).

Further correspondence with respect to this matter should be addressed as follows:

By mail:

Mail Stop PETITION  
Commissioner for Patents  
Post Office Box 1450  
Alexandria, VA 22313-1450

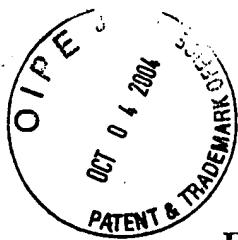
**By hand:** Customer Window located at:

U.S. Patent and Trademark Office  
220 20<sup>th</sup> street S  
Customer Window, Mail Stop Petitions  
Crystal Plaza Two Lobby, Room 1B03  
Arlington, VA 22202

**By fax:** (703) 872-9306  
Attn: Office of Petitions

Telephone inquiries related to this decision should be directed to Wan Laymon at (703) 306-5685.

*Frances Hicks*  
Frances Hicks  
Lead Petitions Examiner  
Office of Petitions  
Office of the Deputy Commissioner  
for Patent Examination Policy



IN THE UNITED STATES DEPARTMENT OF COMMERCE  
PATENT AND TRADEMARK OFFICE

Applicant Under 37 C.F.R. § 1.47(b): Omnicare, Inc.

Inventor: Ralph F. Kalies

Filed: 10/08/2003

Art Unit: 2171

Serial No: 10/681,955

Docket No. 036806.00432

For: METHOD FOR PROCESSING AND ORGANIZING PHARMACY DATA

Mail Stop Missing Parts  
Commissioner of Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**PETITION AND STATEMENT OF FACTS IN SUPPORT OF  
FILING ON BEHALF OF INVENTOR REFUSING TO SIGN  
(37 C.F.R. § 1.47(b))**

With regard to the above-identified patent application, wherein Omnicare, Inc. is the applicant under 37 C.F.R. § 1.47(b) (the "Applicant") and Ralph F. Kalies is the inventor (the "Inventor"), this petition is filed in response to the "Notice to File Missing Parts of Nonprovisional Application" mailed January 5, 2004 (copy enclosed), and is accompanied by:

- 1) a Declaration under 37 C.F.R. § 1.63 executed by the undersigned, an attorney registered to practice before the U.S. Patent and Trademark Office;
- 2) a Power of Attorney signed by an officer of Applicant, authorizing the undersigned to act on behalf of Applicant;
- 3) an assignment from the Inventor to Applicant (the "Assignment") for "METHOD FOR PROCESSING AND ORGANIZING PHARMACY DATA" (the "Invention").
- 4) a Notice of Recordation Form Cover Sheet for the Assignment, for Patent Application No. 10/681,955, recorded at reel 014396, frame 0336;
- 5) a declaration by attorney James R. Eley in support of filing on behalf of inventor, evidencing the Inventor's refusal to sign papers for the above-referenced application; and
- 6) a check in the amount of \$ 370.00 representing the following fees:

\$ 130.00	missing parts surcharge;
\$ 130.00	petition fee (37 CFR §1.17(i)); and
\$ 110.00	extension of time fee (37 CFR §1.17(a)(1)).

I. Action Requested

Petition is hereby made in the above-identified application for the Commissioner to:

- 1) grant a one-month extension of time for reply to the Notice to File Missing Parts under 37 C.F.R. § 1.136(a);
- 2) accord the above-identified application status under 37 C.F.R. § 1.47(b) as a "Filing When an Inventor Refuses to Sign or Cannot Be Reached;" and
- 3) accept the accompanying declaration as fulfillment of the requirement under 37 C.F.R. § 1.63 to submit an oath or declaration for the above-identified application and allow the application to pass to examination.

II. Declaration Under 37 C.F.R. § 1.63

In accordance with MPEP § 409.03(b), "No Inventor Available:"

- 1) The accompanying declaration under 37 C.F.R. § 1.63 was executed by the undersigned, an attorney registered to practice before the U.S. Patent and Trademark Office and authorized to sign on behalf of the Applicant; and
- 2) an executed Power of Attorney authorizing the undersigned to act on behalf of Applicant is attached hereto as proof of authority to execute said Declaration.

III. Right of Assignee to Take Action

In accordance with 37 C.F.R. § 3.73, the Applicant offers as evidence of its right to take action on behalf of the Inventor a copy of the Assignment for the Invention, attached hereto, in which the Inventor assigned a 100% undivided interest in the Invention to Applicant. The Assignment is recorded in the Office at reel 014396, frame 0336. In the Assignment the Inventor further agreed to "execute all necessary and lawful future documents, including assignments in favor of Assignee . . . in order to perfect title in said Invention, modifications, and improvements in said Invention, applications and letters Patent . . ." Pursuant to his employment agreement with Applicant, the Inventor is also obligated to assign all patent rights in the Invention to the Applicant.

IV. Relationship of Applicant to Inventor

The Inventor is a former employee of the Applicant.

V. Statement of the Facts, Proving that Inventor Refuses to Execute the Application Papers

Diligent efforts have been made by the Applicant to persuade the Inventor to execute the declaration for the above-identified application. However all attempts by Applicant to obtain the signature of the nonsigning Inventor have been unsuccessful. A summary of events relating to the above-identified application is provided below:

- October 8, 2002      Provisional Patent Application filed, entitled "METHOD FOR PROCESSING AND ORGANIZING PHARMACY DATA," Serial No. 60/416,810.
- October 14, 2002      Assignment from Inventor to Applicant (the "Assignment") executed for "METHOD FOR PROCESSING AND ORGANIZING PHARMACY DATA" (the "Invention").
- October 22, 2002      Assignment recorded at reel 013424, frame 0631 at U.S. Patent and Trademark Office for Provisional Patent Application Serial No. 60/416,810.
- October 31, 2002      (on or about) Inventor's employment agreement with Applicant expires.
- October 7, 2003      Communication from attorney James R. Eley to Inventor notifying Inventor that non-provisional applications have been finalized and are ready for review by Inventor.
- October 8, 2003      Nonprovisional Application for Patent filed, entitled "METHOD FOR PROCESSING AND ORGANIZING PHARMACY DATA," claiming the benefit of Provisional Patent Application Serial No. 60/416,810.
- October 10, 2003      Communication from attorney Michael A. Forhan to Inventor attaching patent application specification, claims and drawings for his review.
- October 13, 2003      Communication from Pixie I. Picketts, assistant to attorneys James R. Eley and Michael A. Forhan, forwarding Declaration and Power of Attorney forms to Inventor for his review and execution.
- October 27, 2003      Communication from attorney James R. Eley to Applicant, noting that Inventor received patent documents and noting Inventor's willingness to sign, pending Applicant's approval of same.
- November 7, 2003      Communication from attorney James R. Eley to Inventor, supplying Applicant's approval for Inventor to execute patent documents.
- January 5, 2004      Notice to File Missing Parts issued by U.S. Patent and Trademark Office.
- March 4, 2004      Assignment recorded at reel 014396, frame 0336 at U.S. Patent and Trademark Office for Non-provisional Patent Application Serial No. 10/681,955.
- March 26, 2004      Declaration from Attorney James R. Eley indicating that, in a meeting with the Inventor, the Inventor declined to sign the patent documents.

VI. Last Known Address of Inventor Refusing to Sign

The last known address of the Inventor is as follows:

Ralph F. Kalies  
5772 Kumbier Road  
Pickett, WI 54964

VII. Proof of Applicant's Proprietary Interest

In accordance with 37 C.F.R. § 1.47(b), the Applicant offers as evidence of its proprietary interest in the Invention a copy of the Assignment for the Invention, attached hereto, in which the Inventor assigned a 100% undivided interest in the Invention to Applicant. The Assignment is recorded in the Office at reel 014396, frame 0336. In the Assignment the Inventor further agreed to "execute all necessary and lawful future documents, including assignments in favor of Assignee . . . in order to perfect title in said Invention, modifications, and improvements in said Invention, applications and letters Patent . . ." Pursuant to his employment agreement with Applicant, the Inventor is also obligated to assign all patent rights in the Invention to the Applicant.

VIII. Necessity of Filing Application

In accordance with 37 C.F.R. § 1.47(b), the Applicant hereby states that filing of the above-identified patent application is necessary to preserve the rights of the parties identified herein with regard to the Invention. Given the above circumstances, submission of the present Petition is believed to be the only course of action which will enable the application to proceed. Further, if the application is not allowed to proceed, Applicant will suffer irreparable damage due to the loss of the claim for priority for the Invention established under 35 U.S.C. § 120 with provisional patent application number 60/416,810.

IX. Conclusion

In view of the foregoing, including the supporting evidence submitted herewith, grant of this Petition is hereby requested.

Please direct any questions regarding this Petition to Applicant's undersigned attorney at the telephone number indicated below.

Respectfully submitted:

Date: 3-30-2004

By:   
Michael A. Forhan, Reg. No. 46,706

THOMPSON HINE LLP  
2000 Courthouse Plaza, N.E.  
P.O. Box 8801  
Dayton, OH 45401-8801  
Tel. 937-443-6847, Fax 937-443-6635  
Email: Michael.Forhan@ThompsonHine.com

Certificate of Mailing

I hereby certify that this correspondence is being deposited with the United States Postal Service as Express Mail. EM103840537US, postage paid on this 30 day of MARCH 2004 in an envelope addressed to the following:

Mail Stop Missing Parts  
Commissioner of Patents  
P.O. Box 1450  
Alexandria, VA 22313

  
Michael A. Forhan, Reg. No. 46,706



Docket No. 036806.00432

### DECLARATION UNDER 37 CFR §1.63

As attorney of record for the Assignee, Omnicare, Inc., I hereby declare that:

The name, residence, post office address and citizenship of the inventor are as follows:

Name of Sole Inventor : Ralph F. Kalies  
Residence : 5770 Kumbier Road, Picket, Wisconsin, 54964  
Citizenship : U.S.A.  
Post Office Address : 5770 Kumbier Road, Picket, Wisconsin, 54964

I verily believe that Ralph F. Kalies is the original, first and sole inventor (if only one name is listed below) or a joint inventor (if plural inventors are named below) of the invention entitled:

### METHOD FOR PROCESSING AND ORGANIZING PHARMACY DATA

described and claimed

       in the attached specification;  
X in the specification filed October 8, 2003,  
as U.S. Application No. 10/681,955,  
and as amended \_\_\_\_\_.

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims as filed and as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to patentability as defined in Title 37, Code of Federal Regulations, §1.56.

### PRIORITY CLAIM

I hereby claim foreign priority benefits under title 35, United States Code, §119(a)-(d) of any foreign application(s) for patent or inventor's certificate listed below and have also identified below any foreign application(s) for patent or inventor's certificate having a filing date before that of the application on which priority is claimed.

#### Prior Foreign Application(s)

#### Priority Claimed

number	Country	Day/Mo/Yr	Yes	No
number	Country	Day/Mo/Yr	Yes	No

I hereby claim the benefit under Title 35, United States Code, §119(e) of any United States provisional application(s) listed below.

60/416,810	October 8, 2002
Application No.	Filing Date
Application No.	Filing Date

I hereby claim the benefit under Title 35, United States Code, §120 of any United States application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code, §112, I acknowledge the duty to disclose material information as defined in Title 37, Code of Federal Regulations, §1.56(a) which occurred between the filing date of the prior application and the national or PCT international filing date of this application:

Application Serial No.	Filing Date	Status
Application Serial No.	Filing Date	Status

Send Correspondence To: Michael A. Forhan  
Thompson Hine LLP  
2000 Courthouse Plaza N.E.  
10 West Second Street  
Dayton, Ohio 45402-1758

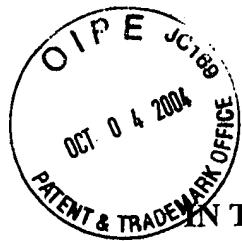
Direct Telephone Calls To: Michael A. Forhan  
(937) 443-6847

I further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under §1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Date: 3-30-2004

  
\_\_\_\_\_  
Michael A. Forhan  
Reg. No. 46,706  
Attorney of Record of Assignee, Omnicare, Inc.

#335208



PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Applicant(s) : Ralph F. Kalies  
Appln. No. : 10/681,955  
Filed : October 8, 2003  
Title : METHOD FOR PROCESSING AND ORGANIZING  
PHARMACY DATA  
Art Unit : 2171  
Docket No. : 036806-432

Commissioner for Patent  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

POWER OF ATTORNEY

All right, title, and interest in the above-identified patent application has been assigned to Omnicare, Inc., from the inventor, Ralph F. Kalies, by virtue of the Assignment recorded with the U.S. Patent and Trademark Office on March 4, 2004 at Reel 014396 / Frame 0336 (copy attached).

The undersigned, as Vice President of Omnicare, Inc., has reviewed the evidentiary documents for the above-identified patent application and hereby certifies that to the best of his knowledge and belief, all right, title, and interest in and to the above-identified application is in the name of Omnicare, Inc., the party seeking to take this action.

On behalf of Assignee and owner of the above-identified U.S. patent application, by assignment, Omnicare, Inc. hereby appoints:

Mark P. Levy	Reg. No. 27,922
Theodore D. Lienesch	Reg. No. 28,235
Douglas E. Erickson	Reg. No. 29,530
Michael A. Forhan	Reg. No. 46,706
Michael J. Nieberding	Reg. No. 39,316
Steven J. Elleman	Reg. No. 41,733
John F. Kane	Reg. No. 44,815
Rose Ann Dabek	Reg. No. 28,064
Jeffrey C. Metzcar	Reg. No. 52,027
Rodney M. Young	Reg. No. 40,882
Victor J. Wasylyna	Reg. No. 52,345

as its attorneys with full power of substitution and revocation, to transact all business in the U.S. Patent and Trademark Office connected therewith.

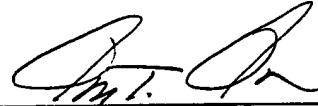
Address all correspondence and telephone calls to:

Michael A. Forhan, Esq.  
Thompson Hine, LLP  
2000 Courthouse Plaza NE  
10 W. Second Street  
Dayton, Ohio 45402-1758  
Telephone: (937) 443-6847  
Facsimile: (937) 443-6635

I, Regis T. Robbins declare that all statements made herein of my own knowledge are true, and that all statements made on information and belief are believed to be true; and further, that the statements are made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001, Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

OMNICARE, INC.

Date: 3/19/04

By: 

Regis T. Robbins  
Vice President

#333401

OPR/ASSIGNMENTS

3/04 6:21 PAGE 2/4 Right AX



**UNITED STATES DEPARTMENT OF COMMERCE**  
**Patent and Trademark Office**  
**ASSISTANT SECRETARY AND COMMISSIONER**  
**OF PATENTS AND TRADEMARKS**  
**Washington, D.C. 20231**



MARCH 08, 2004

PTAS

\*700069919A\*

THOMPSON HINE LLP  
 MICHAEL A. FORHAN  
 10 WEST SECOND STREET  
 2000 COURTHOUSE PLAZA NE  
 DAYTON, OH 45402

UNITED STATES PATENT AND TRADEMARK OFFICE  
 NOTICE OF RECORDATION OF ASSIGNMENT DOCUMENT

THE ENCLOSED DOCUMENT HAS BEEN RECORDED BY THE ASSIGNMENT DIVISION OF THE U.S. PATENT AND TRADEMARK OFFICE. A COMPLETE MICROFILM COPY IS AVAILABLE AT THE ASSIGNMENT SEARCH ROOM ON THE REEL AND FRAME NUMBER REFERENCED BELOW.

PLEASE REVIEW ALL INFORMATION CONTAINED ON THIS NOTICE. THE INFORMATION CONTAINED ON THIS RECORDATION NOTICE REFLECTS THE DATA PRESENT IN THE PATENT AND TRADEMARK ASSIGNMENT SYSTEM. IF YOU SHOULD FIND ANY ERRORS OR HAVE QUESTIONS CONCERNING THIS NOTICE, YOU MAY CONTACT THE EMPLOYEE WHOSE NAME APPEARS ON THIS NOTICE AT 703-308-9723. PLEASE SEND REQUEST FOR CORRECTION TO: U.S. PATENT AND TRADEMARK OFFICE, ASSIGNMENT DIVISION, BOX ASSIGNMENTS, CG-4, 1213 JEFFERSON DAVIS HWY, SUITE 320, WASHINGTON, D.C. 20231.

RECORDATION DATE: 03/04/2004

REEL/FRAME: 014396/0336  
NUMBER OF PAGES: 3

BRIEF: ASSIGNMENT OF ASSIGNEE'S INTEREST (SEE DOCUMENT FOR DETAILS).

ASSIGNEE:  
KALIES, RALPH F.

DOC DATE: 10/14/2002

ASSIGNEE:  
OMNICARE, INC.  
1600 RIVERCENTER II, 100 EAST  
RIVERCENTER BLVD.  
COVINGTON, KENTUCKY 41011SERIAL NUMBER: 10681955  
PATENT NUMBER:FILING DATE: 10/08/2003  
ISSUE DATE:

OPR/ASSIGNMENTS 3/8/04 6:21 PAGE 3/4 Right AX

014396/0336 PAGE 2

KIMBERLY WHITE, EXAMINER  
ASSIGNMENT DIVISION  
OFFICE OF PUBLIC RECORDS

OCT 8 4 2004  
PATENT & TRADEMARK OFFICE  
RECEIVED  
03/04/2004  
700069919

Docket No. 036806-432

Form PTO-1595  
(Rev. 03/01)

OMB No. 0851-0027 (exp. 5/31/2002)

Tab settings   RECORDATION FORM COVER SHEET  
**PATENTS ONLY**U.S. DEPARTMENT OF COMMERCE  
U.S. Patent and Trademark Office

To the Honorable Commissioner of Patents and Trademarks: Please record the attached original documents or copy thereof.

## 1. Name of conveying party(ies):

Ralph F. Kalies

Additional name(s) of conveying party(ies) attached?  Yes  No

## 3. Nature of conveyance:

 Assignment Merger Security Agreement Change of Name Other \_\_\_\_\_

Execution Date: October 14, 2002

## 2. Name and address of receiving party(ies)

Name: Omnicare, Inc.

Internal Address: \_\_\_\_\_

Street Address: 1600 RiverCenter II

100 East RiverCenter Blvd.

City: Covington State: KY Zip: 41011

## 4. Application number(s) or patent number(s):

If this document is being filed together with a new application, the execution date of the application is: \_\_\_\_\_

## A. Patent Application No.(s)

10/681,955

## B. Patent No.(s)

Additional numbers attached?  Yes  No

## 5. Name and address of party to whom correspondence concerning document should be mailed:

Name: Michael A. Forhan

Internal Address: Thompson Hine LLP

2000 Courthouse Plaza NE

Street Address: 10 West Second Street

City: Dayton State: OH Zip: 45402

## 6. Total number of applications and patents involved: 1

7. Total fee (37 CFR 3.41).....\$ 40.00

 Enclosed Authorized to be charged to deposit account

## 8. Deposit account number:

20-0809

(Attach duplicate copy of this page if paying by deposit account)

## DO NOT USE THIS SPACE

## 9. Statement and signature.

To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document.

Michael A. Forhan, Reg. 46,706

Name of Person Signing

Signature

3-3-2004

Date

Total number of pages including cover sheet, attachments, and documents: 3

Mail documents to be recorded with required cover sheet information to:  
Commissioner of Patents & Trademarks, Box Assignments  
Washington, D.C. 20231

GPO : 2000 OMB NO. 0651-0002 10-04-03

**Assignment of Rights in Invention  
(Sole inventor; single assignee)**

Docket No.  
036806.00432

<u>Inventor</u>	Residence of Inventor
Ralph F. Kalies	5770 Kumbier Road Picket, WI 54964
<u>Assignee</u>	Residence or Principal Place of Business of Assignee
Omnicare, Inc.	1600 Rivercenter II 100 East Rivercenter Blvd. Covington, KY 41011

*Whereas, I, the above-identified Inventor, have invented certain new and useful improvements in:  
METHOD FOR PROCESSING AND ORGANIZING PHARMACY DATA*

*(hereinafter referred to as "Invention") for which I am making application for Letters Patent in the United States of America;*

*And, whereas I desire to assign a 100% undivided interest in said Invention, said application disclosing the Invention and any Letters Patent which may be granted therefor to the above-identified Assignee, and whereas said Assignee is desirous of acquiring the entire right, title and interest in the same;*

*Now, this indenture witnesseth, that for the sum of ONE dollars (\$1 ), and other good and valuable consideration, the receipt whereof is hereby acknowledged;*

*I hereby assign, sell and transfer a 100% undivided interest in said invention, said application, including any divisions, continuations, and continuations-in-part thereof, and in and to any and all Letters Patent of the United States, and countries foreign thereto, which may be granted for said Invention, and in and to any and all priority rights, Convention rights, and other benefits accruing or to accrue to me with respect to the filing of applications for patents or securing of patents in the United States and countries foreign thereto, unto said Assignee;*

*And I hereby authorize and request the Commissioner of Patents and Trademarks to issue said United States Letters Patent to said Assignee, as assignee of the whole right, title and interest thereto;*

*And I further agree to execute all necessary and lawful future documents, including assignments in favor of Assignee, or its designees as Assignee or its Assignees may from time-to-time present to me in order to perfect title in said Invention, modifications, and improvements in said Invention, applications and Letters Patent of the United States and countries foreign thereto;*

**Assignment of Rights in Invention**  
**(Sole inventor; single assignee)**

Docket No.  
 036806.00432

Inventor	Residence of Inventor
Ralph F. Kalies	5770 Kumbier Road Picket, WI 54964
Assignee	Residence or Principal Place of Business of Assignee
Omnicare, Inc.	1600 Rivercenter II 100 East Rivercenter Blvd. Covington, KY 41011

*And I further agree to sign and properly execute such necessary and lawful papers for application for foreign patents, for filing divisions, continuations and continuations-in-part of said application for patent, and/or, for obtaining any reissue or reissues of any Letters Patent which may be granted for my aforesaid Invention, as the Assignee thereof shall hereafter require and prepare at its own expense.*

Executed this 14 day of Oct, in the year 2002  
 at Cincinnati

State of Ohio  
 County of Hamilton

Before me personally appeared Ralph F. Kalies  
 who acknowledged the foregoing instrument to be a free act and deed and also represented that he or she is authorized to  
 execute the same this 14 day of October, in the year 2002.



JAMES R. ELEY, Attorney At Law  
 NOTARY PUBLIC, STATE OF OHIO  
 My commission has no expiration date.  
 Section 147.03 P.C.

James R. Eley  
 (Notary Public)



Docket No. 036806-432

### **DECLARATION**

I hereby declare upon information and belief, that:

Each inventor's residence, mailing address and citizenship are as stated below next to their name. I believe the inventor named below to be the original, first and sole inventor (if only one name is listed below) or a joint inventor (if plural inventors are named below) of the invention entitled:

### **METHOD FOR PROCESSING AND ORGANIZING PHARMACY DATA**

described and claimed

       in the attached specification;  
X in the specification filed October 8, 2003,  
as U.S. Application Serial No. 10/681,955,  
and as amended       .

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims as filed and as amended by any amendment specifically referred to above.

I acknowledge the duty to disclose information which is material to patentability as defined in Title 37, Code of Federal Regulations, §1.56.

### **PRIORITY CLAIM**

I hereby claim the benefit under Title 35, United States Code, §119(e) of any United States provisional application(s) listed below.

60/416,810  
Application No.

October 8, 2002  
Filing Date

Address all telephone calls to:  
Address all correspondence to:

(513) 352-6634  
Thompson Hine LLP  
2000 Courthouse Plaza N.E.  
10 W. Second Street  
Dayton, Ohio 45402-1758,  
Attention: Rodney M. Young

Declaration  
Serial No. 10/681,955  
Page 2 of 2

Full name of sole or first Inventor: Ralph F. Kalies  
Residence: 5772 Kumbier Rd., Picket WI 54964  
Citizenship: U.S.A.  
Mailing Address: 5772 Kumbier Rd., Picket WI 54964

I further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under §1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Date: 9/29/04



Rodney M. Young  
Reg. No. 40,882  
Attorney of Record of Assignee, Omnicare, Inc.  
on behalf of Omnicare Inc.

503294